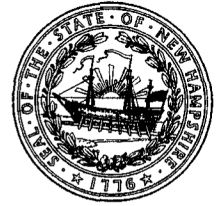




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Karen and Gary Beaulieu
8 Constance Street
Bedford, NH 03110

Re: 10 Guild Circle, Gilford, NH 03249
Septic System Lic# CA2003057277

**NOTICE OF PROPOSED
LICENSE ACTION
No. 05-002**

June 6, 2005

I. INTRODUCTION

This Notice of Proposed License Action is issued by the Department of Environmental Services, Water Division to Karen and Gary Beaulieu, pursuant to RSA 541-A:30 and RSA 485-A:29, I and RSA 485-A:32, I. The Division is proposing that DES revoke the septic system construction approval held by Karen and Gary Beaulieu, based on the violations alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

II. PARTIES

1. The Department of Environmental Services, Water Division ("the Division") is an administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH.
2. Karen and Gary Beaulieu are individuals holding septic system construction approval #CA2003057277 and having a mailing address of 8 Constance Street, Bedford, New Hampshire 03110.

III. SUMMARY OF FACTS AND LAW SUPPORTING PROPOSED ACTION

1. RSA 485-A:29-44 authorizes the Department of Environmental Services ("DES") to regulate the subdivision of land and the construction, maintenance, and repair/replacement of individual sewage disposal systems ("septic systems"). Pursuant to rulemaking authority conferred therein, the Commissioner of DES has adopted Env-Ws 1000 to implement this program.
2. DES issued a septic construction approval number #CA2003057277 dated October 16, 2003 ("the Permit") to Karen and Gary Beaulieu, to allow the construction of an individual septic system on property located at 10 Guild Circle, Gilford, NH 03249 ("the Property").
3. Env-Ws 1008.04, Table 1008-2 requires a minimum setback of the septic tank and leach bed from poorly drained soils of fifty (50) feet, and from very poorly drained soils of seventy-five (75) feet.

4. Env-Ws 1004.19(a) states that "any approval issued by the department [DES] shall be issued based on the presumption that the information submitted as part of the application is true, complete and not misleading."
5. Env-Ws 1004.19(b) authorizes DES to hold a hearing concerning the revocation or suspension of a permit when DES receives information that indicates that the information upon which the approval is based was not true or complete, or was misleading.
6. Env-Ws 1004.19(c) provides that, where DES determines that the approval would not have been issued if true and complete information had been presented with the application and that the site cannot be made to conform to the requirements of the rules, DES shall revoke the approval.
7. The septic plan submitted by Nancy Ramsdell, licensed septic designer #1552, on behalf of the Beaulieus, showed no poorly drained or very poorly drained soils on the Property, and thus no setbacks of either the tank or the leach field from such soils. The approval for the application was based on representations made by Ms. Ramsdell on the plan submitted with the application.
8. Based on information the Beaulieus received about the soils on the lot, the lot was subsequently inspected by both personnel from the DES Wetlands Bureau and by an independent certified wetlands scientist retained by the Beaulieus.
9. Both inspections revealed that most, if not all of the Property consists of jurisdictional wetlands, composed of either poorly drained or very poorly drained soils.
10. Based on these investigations, the Division believes that the approval issued for this application was based on information that was not true, and that the Property cannot be made to conform to the requirements of the rules on which the approval was based.

IV. VIOLATIONS ALLEGED

1. Karen and Gary Beaulieu, through their agent, Karen Ramsdell, provided information on a septic system application that was not true.

V. PROPOSED ACTION

1. Based on the violations identified in IV, above, the Division proposes that DES revoke the Permit.

VI. HEARING, RESPONSE, PROPOSED SETTLEMENT

Karen and Gary Beaulieu have the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:31, at which the Beaulieus and any witnesses the Beaulieus may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross examination. If the Beaulieus wish to have a hearing, one will be scheduled promptly.

RSA 541-A:31, III(e) provides that the Beaulieus have the right to have an attorney present to represent them at their expense.

Karen and Gary Beaulieu may waive their right to a hearing. If the Beaulieus waive the hearing, DES is prepared to revoke the permit. The Beaulieus should notify DES of their decision by filling out and returning the enclosed form by July 11, 2005.

Anyone having questions regarding this matter should contact Richard J. de Seve, Compliance Supervisor, at 271-3442.


COPY
Harry T. Stewart, P.E., Director
DES Water Division

Enclosures

ec: Gretchen R. Hamel, DES Legal Unit Administrator
William E. Evans, P.E., DES Water Division
Richard J. de Seve, DES Water Division
cc: Nancy Ramsdell, septic designer license #1552
Board of Selectmen, Town of Gilford

***** Return This Page Only *****

RETURN THIS PAGE BY July 11, 2005

APPEARANCE

____ I desire a hearing in accordance with RSA 485-A:36, I, regarding the Permit.

Name: _____
(Please type or print legibly)

Title: _____
(Please type or print legibly)

Signature _____

Date: _____

WAIVER OF HEARING

____ We certify that we understand our right to a hearing regarding the revocation of the Permit and that I hereby waive those rights and relinquish septic system construction approval permit #CA2003057277.

Name: _____
(Please type or print legibly)

Title: _____
(Please type or print legibly)

Signature _____

Date: _____

Name: _____
(Please type or print legibly)

Title: _____
(Please type or print legibly)

Signature _____

Date: _____

Please return to: **DES Legal Unit**
Attn: Michael Sclafani
P.O. Box 95, Concord, NH 03302-0095